

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

08 cr 0076

5 versus

United States Courthouse
225 Cadman Plaza East
Brooklyn, N.Y. 11201

6 AGATE, ET AL,

7 DEFENDANTS.
8

9 -----x
10 August 5th, 2008
11 10:00 a. m.

TRANSCRIPT OF CONFERENCE

12 Before: HON. JACK B. WEINSTEIN,
13 UNITED STATES DISTRICT COURT JUDGE

14 APPEARANCES

15 BENTON J. CAMPBELL

16 United States Attorney - Eastern District of New York
17 271 Cadman Plaza East
Brooklyn, New York 11201

18 JOSEPH LIPTON, ESQ.

19 ROGER BURLINGAME, ESQ.

20 EVAN NORRIS, ESQ.

DANIEL BROWNELL, ESQ.

MARISSA SEIFAN, ESQ.

21 Assistant United States Attorneys

22
23 ATTORNEYS FOR CHARLES CARNEGLIA:

KELLEY SHARKEY, ESQ.

24 CURTIS FARBER, ESQ.

25 ATTORNEY FOR VINCENT DECONGILIO:

JAMES MERBERG, ESQ.

1 ATTORNEYS FOR NICHOLAS COROZZO:

DERMUID WHITE, ESQ.
GERALD MCMAHON, ESQ.

22 Reporter:

LISA SCHMID, CCR, RMR
225 Cadman Plaza East Rm 354E
Brooklyn, New York 11201
718) 613-2644

25 Proceedings recorded by mechanical stenography, transcription
by CAT.

LISA SCHMID, CCR, RMR
OFFICIAL COURT REPORTER

1 THE COURT: Good morning, everyone.

2 MR. LIPTON: Good morning, Judge.

3 THE COURT: Sit down, everyone.

4 Mr. Carneglia?

5 THE DEFENDANT: Right here.

6 THE COURT: Counsel?

7 THE CLERK: Counsel?

8 MS. SHARKEY: Kelly Sharkey for Mr. Carneglia.

9 MR. FARBER: And Curtis Farber for Mr. Carneglia.

10 Good morning, Your Honor.

11 THE COURT: Mr. Deconiglio?

12 MR. MERBERG: James Merberg, appearing for Mr.

13 Deconiglio, Your Honor.

14 THE COURT: Mr. Corozzo?

15 MR. WHITE: Dermuid White and Gerald McMahon for Mr.

16 Corozzo.

17 MR. LIPTON: Good morning, Your Honor. Joey Lipton,

18 Roger Burlingame, Daniel Brownell, Marissa Seifan and Evan

19 Norris for the government.

20 THE COURT: Well, as I understand it, we have two
21 problems here today. Mr. Deconiglio and Mr. Corozzo want to be

22 severed. Mr. Carneglia wants an immediate trial. Mr.

23 Carneglia wants more time, correct?

24 MR. FARBER: Correct, Judge.

25 THE COURT: Is that what we're --

1 MS. SHARKEY: And disclosure of the documents the
2 Court has previously ordered.

3 MR. MERBERG: With regard to Mr. Decongilio, I don't
4 believe we have asked for an immediate trial. We haven't
5 received any discovery. We are asking for a severance.

6 THE COURT: I'm not going to sever it unless we have
7 an immediate trial. I've got a very heavy trial calendar that
8 runs. I've got a jury selected already in the ferry boat case.
9 I've got the gun cases immediately following. I've got the
10 capital case immediately following that. Then I have that
11 securities case, which has bounced around the court and up and
12 down to the Court of Appeals, following that.

13 So I can't get to this case until December, January,
14 because where I'm faced with a defendant charged with five
15 murders, some of them running back many years. Obviously, the
16 discovery and the motion practice is going to be very
17 difficult.

18 The other two defendants are relatively light,
19 compared to this one defendant, as I understand from my reading
20 of it, but I may be wrong. I'll hear from everybody.

21 Now, I could slip this case in immediately, or else it
22 will go over into December, January -- if I sever it and try it
23 immediately. And that means it's the only slot I possibly have
24 here is an August 18th date. That presses the Court very hard.
25 It presses everybody, I know.

1 If you want an August 18th date for the other
2 defendants, I'll sever you and put you on right away, and order
3 immediate discovery of everything. Open up the files, and
4 let's get to work. No big secrets, anyway. I mean, we're just
5 fencing around.

6 Do you want to really try the case? Do you want to
7 really have a severance? You think you have a shot? Let's go
8 and try it. Let's be practical about it. What do you want to
9 do? Do you want to consult with your clients?

10 MR. WHITE: Yes.

11 MR. MCMAHON: Yes.

12 THE COURT: But that's the only thing I can do for
13 you. In a five murder case, I cannot force that defendant to
14 trial immediately. It would be absurd. Discovery has got to
15 go into all of those crimes. It's going to take months.

16 The other two defendants are relatively light. I
17 don't say that they're unimportant charges. Every charge is
18 important to the defendant, of course. It's the kind of case
19 where I might even want to consider some kind of arrangement.

20 But I'll hear from the government, then go consult,
21 and we'll put you back on the calendar for a little later in
22 the morning. We have got to be practical about it.

23 What's the government's view?

24 MR. LIPTON: Yes, Judge.

25 From the government's perspective, the practical

1 reality of an August 18th date is that we are going to be very
2 pressed, as Your Honor said.

3 THE COURT: (Shrugs shoulders.)

4 MR. LIPTON: What we intended to do, we will be doing
5 is superseding, we believe, as to all three of these
6 defendants.

7 THE COURT: I really don't want to hear about the
8 superseding. I am not going to allow a supersession to
9 continually put off trials of these cases. You have got a
10 whole mob here indicted.

11 I'm prepared to try that whole mob and sentence the
12 whole mob. And I put every effort of the Court into getting
13 these cases ready for trial and sentence. And I'm not going to
14 be fobbed off by supersession.

15 So if you supersede, I'll try it on whatever remains
16 of the prior indictment. And as far as the defendants are
17 concerned, they may have a double jeopardy problem or they may
18 want to try it all together, because they don't want to have
19 two bites at the apple for the government. Those are all
20 practical considerations.

21 MR. LIPTON: (Nods head affirmatively.)

22 THE COURT: But let's be realistic about what we have.
23 Every other defendant in this mob case -- if I may so
24 characterize it only for the purpose purposes of discussion,
25 without coming to any conclusions with respect to the realities

1 of the situation -- every other defendant is now up for
2 sentencing. You have got these three. One of them is a nine
3 hundred pound gorilla case. I won't characterize what the
4 other two are, but they're relatively much lighter.

5 MR. LIPTON: Well, Judge, we are not in any way, shape
6 or form indicating that we're superseding to fob off the case
7 or in any way to try to delay matters. We indicated that we
8 were going to do that at the last status conference, and even
9 before.

10 The reality is that we've been getting this case very
11 quickly through the system, and now we're down to these final
12 three defendants, the only defendants that are left out of 62
13 defendants.

14 And the case against Mr. Carneglia, obviously, is very
15 serious, five murders. The case against Mr. Corozzo, also very
16 serious. There's two murders. There is also almost a dozen
17 extortion charges that involve -- probably be a hundred hours
18 of tapes.

19 Trying to get either one, two or three with
20 Mr. Deconiglio ready to go to trial in two weeks, essentially,
21 it will be 13 days, with the government requesting an anonymous
22 jury, which we think is warranted under the circumstances,
23 would just, I think -- and I would think be a reasonable
24 characterization -- just not something that we would be able to
25 do.

1 THE COURT: What is the basic charge against
2 Decongilio?

3 MR. LIPTON: He's charged in the RICO conspiracy with
4 two predicate acts, one narcotics offense and one loansharking.

5 THE COURT: Those are very simple.

6 MR. LIPTON: They are not very complicated, Judge.
7 Correct. There is, however, enterprise evidence. There's
8 certain things relating to the RICO that the government would
9 have to put on to prove the charges, so it necessarily makes it
10 somewhat --

11 THE COURT: The case is about a three or four day
12 case.

13 MR. LIPTON: Judge, we don't see it that way, just
14 because we have several witnesses, and it just -- even if Your
15 Honor was trying to press things along, as you I know Your
16 Honor will, I don't think it's going to be that quick of a
17 trial.

18 THE COURT: Corozzo, what's the case against Corozzo?
19 Murder?

20 MR. LIPTON: There's a double murder. There were also
21 a dozen extortions involving one main cooperating witness that
22 involved what we're trying to pare down, but is probably going
23 to be in the neighborhood of anywhere from fifty to a hundred
24 hours of tapes that we're going to play, and we're doing our
25 best to get those narrowed down. You know the advantages of

1 doing that. But that is also going to be a couple of months
2 just to get that through the system.

3 And then Carneglia, with the five murders, in addition
4 to other charges is in a similar time frame of a couple months.

5 We would like to get these cases completed, Your
6 Honor, but August 18th is just -- would put some severe
7 limitations --

8 THE COURT: It's the only time I have.

9 MR. LIPTON: Judge, we understand Your Honor's
10 schedule is very tight. You're trying a lot of cases. We have
11 done everything we can, in addition --

12 THE COURT: I'm not criticizing you. I'm not
13 criticizing anybody at counsel table.

14 MR. MCMAHON: Your Honor, if I might, the government
15 was under an obligation, until a few days ago, to have all
16 three defendants ready for trial on September 15th. Under Your
17 Honor's proposed same date, now they don't have to worry about
18 Mr. Carneglia the entire five alleged murders until next
19 January or thereafter.

20 I do believe that the case against -- the two cases of
21 Mr. Deconiglio and Mr. Corozzo, the government clearly could be
22 ready on August 18th. It is no more of a burden than it is for
23 the defendants. All the extortions -- there may be multiple
24 extortions, but they all revolve around Mr. Valero, one simple
25 person.

1 I think it's clearly August 18th, subject to
2 consultation with Mr. Corozzo and Mr. White, of course. I
3 don't think that the government should be allowed to say that
4 they can't be ready, when they had to be ready for all three on
5 September 15th.

6 THE COURT: I suppose I could do Corozzo with
7 Carneglia. I can't go into September because I have a capital
8 case, which we sent down to Washington. The government sent it
9 down. Shouldn't be a capital case. I think everybody
10 understands that. But Washington wants it as a capital case.
11 Four years, it has been up to the Second Circuit, and I can't
12 hold it off. I mean, that is an immovable rock in my calendar,
13 September 15th, one month, two months.

14 We've got the gun cases, which has been straggling,
15 and I have this other case involving securities, where
16 defendants, if they're acquitted, they're just ordinary
17 law-abiding citizens. They're entitled to get that weight off
18 that's been hanging for years.

19 MR. MCMAHON: Judge, perhaps we could consult with the
20 clients now, to make our decision as to whether we wish to go
21 --

22 THE COURT: Why don't you try to do that?

23 MR. MERBERG: Your Honor, James Merberg for Mr.
24 Deconiglio.

25 I filed a renewed motion for severance, addressing all

1 these issues. Mr. Decongilio's cases, Your Honor may recall,
2 there are two -- he is only charged in Count One, and I know
3 the government's been wielding the sword about superseding.
4 They have done that from the beginning. Nothing has happened
5 as of yet.

6 But the two predicate acts, one involves, as I
7 understand from Mr. Lipton -- he can correct me if I'm wrong --
8 a conspiracy involving one pound of marijuana. The other
9 predicate acts, I believe, two individuals as John Doe Two and
10 Three, claimed extortionate extension of credit.

11 Mr. Decongilio is not in custody. He has been
12 released from the first day. He's appeared on every occasion.
13 Maybe it would be appropriate simply to continue his case to
14 when Your Honor's schedule lightens up. I think we can try it
15 in the four days I think the Court is correct on --

16 THE COURT: You're not going to rush --

17 MR. MERBERG: I want to talk to my client, but I
18 haven't received one drop of discovery, not one drop. I
19 received a lot of letters, but none of it has anything to do
20 with Mr. Decongilio.

21 We're talking about a nine-year-old marijuana
22 conspiracy. I don't think the evidence is going to get any
23 better or any worse. They either have it or they don't. They
24 haven't chosen to turn over the information.

25 THE COURT: Can the marshals allow counsel, arrange

1 for counsel to consult someplace in the building?

2 What time is it?

3 THE CLERK: We have a calendar right through 2:30.

4 THE COURT: Polizzi is a heavy motion. Then we have a
5 sentencing at 11:30. I guess we could make it at 12. And we
6 have a two o'clock, 2:30.

7 MR. MCMAHON: Your Honor, I don't think we need more
8 than five minutes to speak to our clients, rather than bog down
9 your schedule. I think I could speak to my client in a matter
10 of minutes. I think my brother counsel can, as well.

11 THE COURT: Well, the simplest way to handle it might
12 be for everyone to clear the courtroom except counsel and the
13 defense. We'll just leave the courtroom. Clear the courtroom,
14 and the marshals will remain. And it's ten -- after ten.
15 We'll convene at 10:15.

16 MR. MCMAHON: That's fine.

17 THE COURT: Everybody else out, including the
18 reporter.

19 (Recess)

20 THE COURT: Now, what's the view of defense counsel?

21 MR. WHITE: Your Honor, Dermuid White, if I may be
22 heard.

23 The case against Mr. Corozzo involves a double
24 homicide in which he's not alleged to have been involved in
25 executing the murder itself, but to have ordered it. So the

1 evidence against him will be basically cooperator testimony,
2 Your Honor. They'll not be a lot of dispute about forensics or
3 crime scene evidence like that.

4 The murder itself, the alleged shooter in that, has
5 already been tried in the Southern District a few years ago,
6 and the total amount of evidence that went into that murder
7 proof lasted about a week, I would say, over a lengthier trial,
8 but just on that charge.

9 There are ten racketeering acts of extortion against
10 Mr. Corozzo, but they all involve one witness, the cooperator,
11 Joseph Valero. So, although it sounds like a lot of
12 extortions, it's still one witness. It's the government's
13 choice how many tapes they want to play, but I don't see the
14 case as being all that complicated.

15 Mr. Corozzo is incarcerated. He's anxious for an
16 early trial. We don't want to wait until December or January,
17 and we're ready and willing to go forward on August 18th, and
18 we think you would have plenty of time for your September 15th
19 trial, Your Honor.

20 We will not oppose an anonymous jury. We'll oppose a
21 sequestered jury or partially sequestered jury. I don't
22 believe there will be a lot of litigation here in terms of
23 extensive motion practice.

24 We have a fairly good grip on the case in terms of
25 what's involved in legal issues and the factual issues, so I

1 think we can go forward on the 18th, and you know, we'll be
2 finished by the 15th.

3 THE COURT: Thank you.

4 MR. MCMAHON: I totally agree with Mr. White, as does
5 Mr. Corozzo.

6 THE COURT: Government?

7 MR. LIPTON: Judge, we disagree with the assessment by
8 defense counsel for Mr. Corozzo. It's just not that simple
9 that it's going to be done by September 15th.

10 While the double murder charge was subject to a case
11 in the Southern District that Mr. White was involved in, and
12 maybe the evidence of the murder went in a week, the
13 extortions, which there's one main cooperator witness, but
14 there are other witnesses.

15 There are just an exorbitant number of tapes that
16 involve discreet extortions that are charged individually, and
17 while it may be largely one victim, the explanation for each of
18 them involves a number of tapes involving not just Mr. Corozzo,
19 but the people who were under him and those involved that will
20 literally take a few weeks to get through.

21 In addition, there's gambling charges, which there's a
22 number of tapes, include wire tape recordings that we have to
23 go into.

24 I'm not saying this to try to delay matters. The
25 reality is that even with Your Honor trying to make sure we

1 streamline this as much as possible, which we think is always
2 to the benefit of all sides, it's just not going to get done
3 that quickly.

4 And I'm even putting aside just the preparation to get
5 that in order, which would -- maybe if we had 13 days free of
6 anything else, we could try to do it, which I just don't think
7 we really would -- but in this case, we have a number of
8 sentencings, which we have been trying to respond to
9 submissions and get done as quickly as possible.

10 And we have a situation here, Your Honor, where Mr.
11 Corozzo was a fugitive for four months. He voluntarily turned
12 himself in, but he knew the indictment was out there. He's now
13 trying to get an immediate trial, which he has a right to do,
14 except that to do that, he has to take away time that the
15 government's got to put into trying to get the people sentenced
16 who didn't flee, and trying to get the people sentenced who
17 have submitted things that we have a right to respond to.

18 Mr. Corozzo recently took a plea to a state charge.
19 He's facing five to 15 years, Judge. So he's going to be
20 incarcerated for that period of time, roughly ten years, no
21 matter what. So it's not as if we have somebody who needs to
22 get their trial immediately, so that they can resolve those
23 charges and get out.

24 If he does win in this case, Your Honor, when that
25 comes to pass, he is going to be facing time in the state,

1 which is at a minimum, from my understanding, five years and
2 most likely around ten years.

3 They should press their rights where appropriate, but
4 in this case, doing it in 13 days from today's date is just not
5 reasonable, from the government's perspective.

6 MR. WHITE: Your Honor, just a factual correction.
7 His state plea is conditional. If he is acquitted in this
8 case, that plea is withdrawn, and any sentence he gets in that
9 case would be concurrent in this case.

10 MR. MCMAHON: Judge, to correct the record, Mr.
11 Corozzo has, through Mr. White, pressed for an immediate trial,
12 right from the beginning moment he surrendered.

13 THE COURT: Yes, I know he has.

14 Well, the government was supposed to have been ready
15 to try this case shortly after the indictments came down, and
16 that's months and months and months ago.

17 The speedy trial rule provides for a delay, but that
18 delay has not been justified for many months, except for when
19 the case was characterized as complex by this Court.

20 I believe that it can be well tried, fairly tried to
21 the defendants and the government, if it's set down for
22 August 18th.

23 We'll select the jury. I don't understand why it has
24 to be an anonymous jury. I am certainly not going to use a
25 sequestered jury, but I don't care for anonymous juries. Why

1 anonymous?

2 MR. LIPTON: We can address that. Because an
3 anonymous jury is necessary here because of the safety of the
4 witnesses and of the jurors. We have the Gambino family, who
5 has a long history, and even we have more recent information
6 about jury tampering in a number of trials -- in fact, trials
7 in which Mr. Corozzo was a defendant, where it's clear that the
8 jury was tampered with, and which resulted in the acquittals of
9 Mr. Corozzo on one case back in the eighties.

10 THE COURT: All right. I'll give you an anonymous
11 jury.

12 MR. LIPTON: Judge, just to address the 18th date, I
13 mean, just on the equities, we're trying to do everything we
14 could to be ready by the September date, which we had
15 previously been ordered by Your Honor, and working around the
16 clock to --

17 THE COURT: Yes, but the September date included the
18 other defendant who is a main defendant, who is the most
19 difficult to prepare for, which I'm severing.

20 MR. LIPTON: Your Honor, we were doing both. It's not
21 as if one person's doing both. We have a number of people
22 obviously here.

23 THE COURT: I'm not criticizing you. The U. S.
24 Attorneys have handled the case well. You have a very large
25 staff assigned to it.

1 But we have to move on. I'm going to sever it, and
2 set these two defendants down.

3 MR. MERBERG: Your Honor, with regard to
4 Mr. Deconiglio, we did consult with him first. We would be
5 willing to waive any speedy trial claims. It's 13 days from
6 today that we would be picking a jury. I have received no Rule
7 16 discovery, no Jenks, no 404, nothing.

8 THE COURT: Give him all this discovery.

9 MR. LIPTON: Judge, he has all the discovery that he's
10 going to get as to those charges, Your Honor. We also do think
11 --

12 THE COURT: You have given him everything?

13 MR. LIPTON: We have given him everything as to the
14 charges.

15 THE COURT: You'd better get together and consult, and
16 find out what you think you didn't get. He thinks you've got
17 everything.

18 MR. MERBERG: I can say we haven't received any
19 experts, any scientific, anything under the Rule. I haven't
20 received one shred of evidence directly against Mr. Deconiglio.
21 There are no wiretaps. There are no surveillance photographs.

22 There is no physical evidence, but I've received
23 nothing else, no information about with whom he's alleged to
24 have conspired, nothing. No enterprise information, not one
25 shred of evidence, Your Honor, directly related to Mr.

1 Deconiglio. If I'm in error, I invite my brother to explain to
2 the Court.

3 MR. LIPTON: Judge, we have given him everything.
4 There is no scientific evidence. This is largely a cooperator
5 case, and as Your Honor knows, cooperator cases are largely
6 testimony.

7 THE COURT: Do they know who the cooperating witness
8 is going to be?

9 MR. LIPTON: I don't know.

10 MR. MERBERG: The answer is no, Judge.

11 THE COURT: Who is the cooperating witness, again?

12 MR. LIPTON: We're not at liberty at this time to say.

13 THE COURT: Well, when are you going to be at liberty?

14 MR. LIPTON: Well, Judge, it depends when Mr.
15 Deconiglio would be set down for trial.

16 THE COURT: Well, I'm setting it down for trial for
17 August 18th. I've just done that.

18 MR. LIPTON: Well, I just didn't know if Mr.
19 Deconiglio was amenable to that, Your Honor.

20 THE COURT: He's amenable if he gets his discovery.
21 When were you going to give him the discovery?

22 MR. LIPTON: We have given him the discovery, Your
23 Honor. There's probably some enterprise evidence that will be
24 coming, but --

25 THE COURT: Who is the chief witness against him?

1 MR. LIPTON: We're not at liberty at this time to say,
2 because we are -- if we're going to be trying to go to trial,
3 there is a lot of history of tampering with witnesses. We're
4 very concerned.

5 THE COURT: You can't do that. You can't do that.
6 You have got to -- he's got to know who the witness is. He's
7 got to know what transcripts are going to be used against him.

8 MR. LIPTON: Absolutely, Your Honor, and we do that --

9 THE COURT: You must have had that when the grand jury
10 indicted him.

11 MR. LIPTON: Judge, there's no transcript as to Mr.
12 Deconiglio.

13 THE COURT: Are there any wiretaps?

14 MR. LIPTON: No. Mr. Merberg knows that.

15 THE COURT: All right. That's conceded.

16 MR. MERBERG: That I understood, Your Honor.

17 THE COURT: That's not -- the only question is, is it
18 a one-witness case against him?

19 MR. LIPTON: No, Your Honor.

20 THE COURT: How many witnesses?

21 MR. LIPTON: There are probably, in terms of
22 cooperators, three or four.

23 THE COURT: That are going to testify against him?

24 MR. LIPTON: Correct, Judge.

25 THE COURT: All right. Give him the witnesses' names.

1 Today's Tuesday? Give it to him by next Monday.

2 MR. LIPTON: Your Honor --

3 MR. MERBERG: Would that include the Jenks material,
4 as well, Your Honor? These witnesses have testified in other
5 cases. I'm a sole practitioner. I need to have the
6 information.

7 THE COURT: Give him the Jenks, too.

8 MR. LIPTON: Given the tight time frame, we'll give
9 them 3500 consistent with the rule. We'll do everything we can
10 do to get that.

11 THE COURT: The case is assigned to a magistrate judge
12 to expedite discovery. If you have any complaints, take them
13 to the magistrate judge.

14 MR. MERBERG: Your Honor, that's fine. What's the
15 existing order in terms of turning over the materials that you
16 have directed? Will that be by next Tuesday or by Monday?

17 THE COURT: Monday.

18 MR. MERBERG: Received by Monday?

19 MR. LIPTON: I know Your Honor's views on superseding,
20 but I think the government --

21 THE COURT: I have no superseding before me.

22 MR. LIPTON: Correct, Your Honor.

23 THE COURT: I've got an indictment.

24 MR. LIPTON: Yes.

25 THE COURT: That's what I'm ordering.

1 MR. LIPTON: I understand.

2 THE COURT: If there's a superseding, I'll consider
3 it.

4 MR. LIPTON: Thank you, Judge. I just want to make
5 sure that everyone is on notice that it may be coming, and I
6 just don't want Your Honor to then say --

7 THE COURT: No. I have no superseding indictment
8 before me.

9 MR. MERBERG: Just so --

10 THE COURT: I can't make decisions based on
11 hypotheticals.

12 There is now a superseding indictment?

13 MR. MERBERG: Yes, Your Honor.

14 THE COURT: Have they pleaded?

15 MR. MERBERG: As to Mr. Deconiglio, he's charged again
16 in the same one count.

17 THE COURT: Has he pleaded?

18 MR. MERBERG: He has not pleaded.

19 THE COURT: How does he plead?

20 THE DEFENDANT: He pleads not guilty.

21 THE COURT: And does he waive reading?

22 MR. MERBERG: Yes, Your Honor.

23 MR. MCMAHON: Same with Mr. Corozzo.

24 THE COURT: He pleads not guilty?

25 MR. MCMAHON: Yes, Judge.

1 THE COURT: Waives the reading?

2 MR. MCMAHON: Yes, Judge.

3 THE COURT: All right. Now, as to Carneglia --

4 MR. FARBER: Yes, Your Honor. He needs to be
5 arraigned on the superseding indictment, as well, Your Honor.

6 THE COURT: How does he plead?

7 MR. FARBER: Not guilty.

8 THE COURT: Waives the reading?

9 MR. FARBER: He does, Your Honor.

10 THE COURT: June, January for him, first week in
11 January.

12 THE CLERK: January 5th.

13 THE COURT: Mr. Carneglia is set down for trial
14 January 5th.

15 MR. FARBER: That's fine, Judge.

16 MS. SHARKEY: Judge --

17 THE COURT: 2009.

18 MS. SHARKEY: Your Honor, there are issues of
19 discovery compliance.

20 THE COURT: I don't want to take them up this morning.

21 MS. SHARKEY: Okay.

22 THE COURT: Respectfully refer it to the magistrate
23 judge, and take them up. If you don't get a satisfactory
24 decision -- but I don't see any point in burdening everybody
25 with those matters at this point. The government has to

1 concentrate on these two defendants, not Carneglia.

2 MR. LIPTON: Yes, Judge. And we obviously have to
3 deal with the sentencings that are going to be coming up in the
4 next 13 days, which is going to obviously hamper our ability to
5 prepare.

6 THE COURT: I don't see why it will hamper your
7 ability. The pattern is very clear in those sentences, subject
8 to hearing every defendant and the government and every witness
9 and every restitution witness that you proffer, the pattern is
10 very clear.

11 They come within the guidelines, at the lower end.
12 And I don't know what the great difficulty is. They all have
13 been dealt with plea agreements. You're really at this stage
14 pretty cut and dry.

15 MR. WHITE: Your Honor, can I address a collateral
16 issue here?

17 THE COURT: (Nods head affirmatively.)

18 MR. WHITE: Mr. Corozzo surrendered on May 29th. He
19 has been in custody since then. He has not had medical
20 treatment, has not been seen by a doctor or any other person.
21 I want to make sure when he starts on trial on August 18th,
22 that he is in good health and is going to be healthy throughout
23 the trial.

24 THE COURT: Well, he should see a doctor. Did you
25 check --

1 MR. WHITE: The government is participating with me.

2 THE COURT: What's his problem?

3 MR. WHITE: Well, he has prostate cancer, Your Honor.

4 THE COURT: Cancer or an indication?

5 MR. WHITE: No, cancer. He's had --

6 THE COURT: How old is he?

7 MR. WHITE: He's 68 years old, Your Honor, a young
8 man.

9 THE COURT: Read today's New Yorker. Very
10 encouraging.

11 MR. WHITE: But we may need the Court's help if he --

12 THE COURT: I am always available.

13 MR. WHITE: He had a couple of appointments, and they
14 were just canceled.

15 THE COURT: The Court is always here.

16 MR. WHITE: Thank you, Your Honor.

17 THE COURT: How many jurors do we think we're going to
18 need?

19 MR. LIPTON: Given that it's an anonymous jury, Your
20 Honor --

21 THE COURT: And the summer.

22 MR. LIPTON: And the summer, I think roughly two to
23 three hundred, and that may be on the low end. I think --

24 THE COURT: Put in an order for 300 jurors. We have
25 to put it in immediately. That's why we have to fix the date

1 immediately.

2 MR. LIPTON: And Your Honor, just so it's clear, the
3 jury selection would be starting on the 18th. Did you refer
4 that to the magistrate? It's anonymous. I think Your Honor
5 handles that.

6 THE COURT: I think I ought to handle it, because
7 we'll get done -- not better, but quicker, and then we can go
8 into immediate openings.

9 You're not going to use -- or are you going to want to
10 use a questionnaire?

11 MR. LIPTON: Yes, Judge. We will prepare one and get
12 to that defense counsel.

13 THE COURT: And now, we ought to set it down for in
14 limine questionnaire rulings and other matters for hearing next
15 week. Thursday or so?

16 MR. LIPTON: I would say Thursday, we try to resolve
17 that.

18 THE COURT: August 14th, 10 a. m. And the parties
19 will get together and work on the questionnaire, if they don't
20 agree on it.

21 Anything further?

22 MS. SHARKEY: Judge, when would you -- with the
23 January 5th trial date, we have some substantive motions to
24 file. What date would you like us to file them on?

25 THE COURT: Whenever you want to. I really -- I would

1 say the September.

2 MS. SHARKEY: Okay.

3 THE COURT: Make them returnable mid-September.

4 MR. MERBERG: Your Honor, just for the record, on
5 behalf of Mr. Decongilio, having represented to Your Honor we
6 waived the speedy trial, we're asking the Court to consider a
7 severance in the Decongilio/Corozzo matter for the same reason
8 that I raised in my last submission, which has been filed.

9 I understand the government has filed an opposition.
10 The issues remain essentially identical, other than we're not
11 in the same case now with Mr. Carneglia.

12 THE COURT: Denied. The Court has considered the
13 matter. A trial together will not prejudice your client, and
14 will substantially add to the efficiency of the court and the
15 United States Attorney's Office.

16 MR. MERBERG: Does the Court intend to work full trial
17 days? The reason I ask --

18 THE COURT: Yes.

19 MR. MERBERG: -- is to ask the Court to give me a
20 protective order, because I have other matters already
21 scheduled for trial.

22 THE COURT: Draft it and I'll sign it.

23 MR. MERBERG: All right.

24 MR. WHITE: Will we be sitting all five days, Your
25 Honor?

1 THE COURT: We will.

2 Anything further?

3 MR. MCMAHON: No, Judge.

4 MR. MERBERG: Thank you, Your Honor.

5 MS. SHARKEY: Thank you, Your Honor.

6 THE COURT: Thank you all.

7 MR. MCMAHON: Thank you, Your Honor.

8 (Proceedings concluded.)

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